

18TH JUDICIAL DISTRICT COURT FOR THE PARISH OF IBERVILLE

STATE OF LOUISIANA

DOCKET NO. 78953

DIVISION "A"

AUGUST J. LEVERT, JR., FAMILY, LLC; RONALD R. LEVERT; PAUL M. LEVERT;
MARK W. LEVERT, JR.; JOHN E. SANFORD; JAMES L. SANFORD; and CAMPO E.
MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

**BP AMERICA PRODUCTION COMPANY'S LIMITED ADMISSION OF
ENVIRONMENTAL DAMAGE PURSUANT TO La. R.S. § 30:29**

BP America Production Company ("BP"), as successor to Midwest Oil Corporation ("Midwest") and Amoco Production Company ("Amoco"), submits this limited admission under Louisiana Revised Statute 30:29 ("Act 312") and states the following:

1. On November 28, 1966, Plaintiffs' purported predecessors-in-title, Aurelie L. Gassie et al., granted an Oil, Gas and Mineral Lease to The Dow Chemical Company ("1966 Mineral Lease") covering an undivided one-half interest in all of Fractional Section 15, Township 10 South, Range 11 East, Iberville Parish, Louisiana ("Section 15") located in the Grand River Oil and Gas Field ("Field").¹

2. By Assignment dated October 4, 1967, BP's predecessor, Midwest, received a partial interest in the 1966 Mineral Lease.

3. Pursuant to the Assignment, Midwest drilled and operated three wells on the North Half of Section 15 ("Subject Property") beginning in 1967: the Schwing-Levert No. 1 (SN 120453), the Schwing-Levert No. 1-D (SN 121454), and the Schwing-Levert No. 2 (SN 123040) (collectively, the "Schwing-Levert Well Sites").²

¹ In 1966, Section 15 was co-owned by Aurelie L. Gassie et al. and E.B. Schwing, Jr. et al. On September 14, 1966, E.B. Schwing, Jr. et al. granted an Oil and Gas Lease to The Dow Chemical Company covering their undivided one-half interest in all of Section 15 ("1966 Schwing Mineral Lease"). The successors of E.B. Schwing, Jr. et al. are not plaintiffs in this lawsuit. Midwest received a partial interest in the 1966 Schwing Mineral Lease by the Assignment dated October 4, 1967.

² The successors of Aurelie L. Gassie et al. and E.B. Schwing, Jr. et al. partitioned Section 15 in 2015. As a result of the 2015 Partition, Plaintiffs purport to own the North Half of Section 15 which is more particularly described in the Petition for Damages as, "[t]hat certain tract of land situated in the Parish of Iberville, State

4. On November 1, 1968, Plaintiffs' purported predecessors-in-title, Aurelie L. Gassie, et al., granted a Surface Lease to Midwest that covered an undivided one-half interest in 3.57 acres of the Subject Property ("1968 Surface Lease").³ The 1968 Surface Lease granted Midwest the right to operate disposal pits, tank batteries, separators, and oil storage tanks on the Subject Property.⁴

5. From 1967 to 1974, Midwest operated the Schwing-Levert Well Sites and a tank battery on the Subject Property. BP's predecessor, Amoco, began operating on the Subject Property in 1974. By 1985, Amoco conveyed its interests in the Field.

6. Midwest, Amoco, or BP did not operate on the Subject Property after 1985, though other companies conducted oil and gas operations on the Subject Property following Midwest's and Amoco's operations. The Schwing-Levert Well Sites and the tank battery were all plugged, abandoned, and decommissioned by 1997.

7. Plaintiffs, as the purported owners of the Subject Property, filed this lawsuit on May 28, 2019 claiming that Midwest's and Amoco's operations, along with operations conducted on a neighboring tract, caused environmental damage on the Subject Property.

8. Louisiana's Act 312 broadly defines "environmental damage" as "any actual or potential impact, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites or exploration and production sites." La. R.S. 30:29 (I)(2).

9. The Louisiana Legislature enacted Act 312 "to ensure that damage to the environment is remediated to a standard that protects the public interest" and to provide "the procedure for judicial resolution of claims for environment damage[.]" La. R.S. 30:29(A).

10. When a plaintiff alleges "environmental damage" in a lawsuit, a defendant may make a limited admission under Act 312 for the environmental damage and thus take

of Louisiana, and being the North Half (N/2) of Fractional Section 15, Township Ten South (T10S), Range 11 East (T11E), containing 57.155 acres; and listed as part of Parcel Number 0800988025 in the Tax Roll Records in the Assessor's Office in Iberville Parish, Louisiana." The successors of E.B. Schwing, et al. are the purported owners of the South Half of Section 15.

³ E.B. Schwing, Jr. et al. granted Midwest a Surface Lease covering their undivided one-half interest in 3.57 acres of the Subject Property on October 21, 1968. The successors of E.B. Schwing, Jr. et al. are not plaintiffs in this lawsuit.

⁴ On October 21, 1968, Midwest was granted a similar surface lease by the neighboring landowner, the Iberville Parish School Board ("1968 IPSB Surface Lease").

“responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination” that is the subject of the litigation to applicable regulatory standards. La. Code Civ. Proc. Art. 1563(A).

11. When a defendant makes a limited admission, the Louisiana Department of Natural Resources (“LDNR”) is to conduct a public hearing to determine the most feasible plan to evaluate or remediate the environmental damage under applicable regulatory standards. La. Code Civ. Proc. Art. 1563(A)(2).

12. A defendant who makes a limited admission must perform the evaluation and, if necessary, the remediation required by the most feasible plan, and the admitting defendant shall deposit into the court registry all money that the court determines is necessary for the evaluation or remediation of the land required by the most feasible plan. *See* La. R.S. 30:29 (C)(5).

13. A limited admission shall not be construed as BP’s admission of liability for any of Plaintiffs’ private claims, including, without limitation, that BP or its predecessors’ historical operations were negligent or that BP or its predecessors breached any relevant contract or leases with Plaintiffs. La. Code Civ. Proc. Art. 1563 (A)(1). BP affirmatively states that the historical operations of its predecessors, Midwest and Amoco, were reasonable, prudent, and consistent with its lease terms and industry practice. *See* La. R.S. 30:29. BP affirmatively states it had no control over the operations of any other operators on the property. BP reserves all rights and defenses.

14. Although BP itself did not operate on the property, BP nevertheless recognizes that, as the successor to Midwest and Amoco, it may hold present-day regulatory responsibility under present-day regulations for “environmental damage” under Act 312.

15. While there exists some evidence of “potential impact” to the Subject Property from historical oil and gas operations, none of constituents found on the property pose a risk to human health or the environment.

16. BP wishes to ensure that any money awarded in this lawsuit is used to address “environmental damage” and believes that the relevant state agencies are in the best position to approve or structure a plan to evaluate or remediate the environmental damage on the Subject Property that protects the health, safety, and welfare of the people.

17. Pursuant to the provisions of Louisiana Code of Civ. Proc. Art. 1563 and Act 312, BP makes a limited admission of responsibility for environmental damage in Limited Admission Areas 1, 2, and 3 depicted on the attached map (Exhibit A) and described as follows:

- A. Limited Admission Area 1: There exists evidence of actual or potential impact to the Discontinuous Shallow Water Bearing Zone⁵ in Limited Admission Area 1 depicted on Exhibit A. Limited Admission Area 1 is associated with a now closed pit formerly located on the Iberville Parish School Board Property. BP's limited admission within Limited Admission Area 1 is for environmental damage, if any, to groundwater.
- B. Limited Admission Area 2: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 2 depicted on Exhibit A. Limited Admission Area 2 is associated with the Schwing-Levert No. 1 (SN 120453) and the Schwing-Levert No. 1-D (SN 121454). BP's limited admission within Limited Admission Area 2 is for environmental damage, if any, to soil and groundwater.
- C. Limited Admission Area 3: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 3 depicted on Exhibit A. Limited Admission Area 3 is associated with the Schwing-Levert No. 2 (SN 123040). BP's limited admission within Limited Admission Area 3 is for environmental damage, if any, to soil and groundwater.⁶

18. BP admits that it is a "responsible party" under Act 312 to evaluate and, if necessary, remediate to applicable regulatory standards any "actual or potential impacts" found in Limited Admission Areas 1, 2, and 3.

⁵ "Discontinuous Shallow Water Bearing Zone" means the Class 3 groundwater present intermittently occurring between approximately eleven to sixteen feet beneath the ground surface.

⁶ Limited Admission Areas 1, 2, and 3 depicted on Exhibit A and which are more particularly described in Paragraphs 17(A) to 17(C) herein are hereinafter collectively referred to as "Limited Admission Areas 1, 2, and 3."

19. BP elects to limit this admission to responsibility for implementing the Most Feasible Plan to evaluate and, if necessary, remediate all or a portion of substances or contaminants, if any, in Limited Admission Areas 1, 2, and 3 to applicable regulatory standards that protect the health, safety, and welfare of the public.

20. By this filing, BP invokes La. R.S. 30:29(C) which mandates that the Court refer this matter to the Louisiana Department of Natural Resources to conduct a public hearing as set forth in Louisiana Code of Civil Procedure article 1563 (A)(2) and Act 312. (“[i]f one or more of the defendants have made a timely limited admission, the court shall refer the matter to the Department of Natural Resources. . . to conduct a public hearing to approve or structure a plan which the department determines to be the most feasible plan to evaluate or remediate the environmental damage[.]”)

21. Louisiana Code of Civ. Proc. Art. 1563(A)(5) provides that the deadline for a limited admission is ninety days from the date environmental sampling on the Subject Property is complete. According to the Environmental and Case Management Order entered by the Court on June 22, 2022, the deadline for BP to complete its sampling of the Subject Property is January 31, 2023. Thus, this limited admission is timely.

22. Given that the relevant state agencies are in the best position to determine the most feasible plan to evaluate or remediate the admitted to environmental damage on the Subject Property, BP makes this limited admission so that the most feasible plan for remediation may be determined in advance of the trial of this matter which is currently scheduled for June 2023. *See* La. Code Civ. P. art. 1563(2) (providing that the limited admission, the plan approved by the LDNR, and all written comments by the agencies shall be admissible evidence in any action). Indeed, as a result of this limited admission, this matter shall be referred to the LDNR as set forth in the accompanying *Ex Parte* Motion and Incorporated Memorandum in Support for Mandatory Referral to the Louisiana Department of Natural Resources for the Development of the Most Feasible Plan Pursuant to La. R.S. 30:29. In the event that additional data provides new information, BP reserves the right to amend the scope of this admission.

Respectfully submitted:



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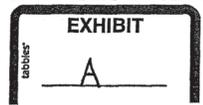
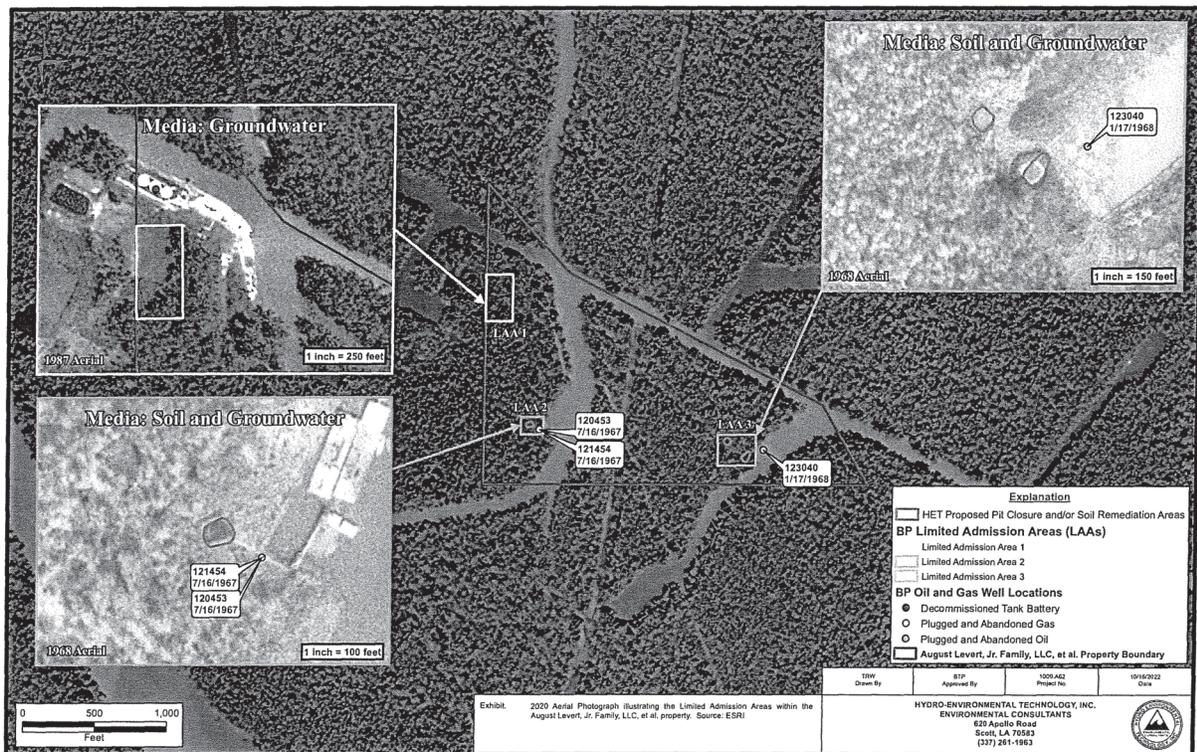
Attorneys for BP America Production Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has this day been forwarded to all known counsel of record by e-mail properly addressed.

Lafayette, Louisiana, this 26th day of October, 2022.





18TH JUDICIAL DISTRICT COURT FOR THE PARISH OF IBERVILLE

STATE OF LOUISIANA

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MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

**BP AMERICA PRODUCTION COMPANY'S *EX PARTE* MOTION
AND INCORPORATED MEMORANDUM IN SUPPORT FOR
MANDATORY REFERRAL TO THE LOUISIANA DEPARTMENT
OF NATURAL RESOURCES FOR THE DEVELOPMENT OF
THE MOST FEASIBLE PLAN PURSUANT TO La. R.S. 30:29**

MAY IT PLEASE THE COURT:

Pursuant to the provisions of Louisiana Code of Civ. Proc. Art. 1563 and La. R.S. 30:29 ("Act 312"), BP America Production Company ("BP") has made a limited admission for environmental damage on the Subject Property and that it is a "responsible party" as to specific portions of the Subject Property.¹ Therefore, BP moves this Court to refer this matter to the Louisiana Department of Natural Resources ("LDNR") for the development of the most feasible plan mandated by Act 312.

I. INTRODUCTION

Plaintiffs August J. Levert, Jr., Family, LLC, Ronald R. Levert, Paul M. Levert, Mark W. Levert, Jr., John E. Sanford, James L. Sanford, and Campo E. Matens (collectively, "Plaintiffs"), filed suit on May 28, 2019 alleging that BP is responsible for environmental damage to the Subject Property. Plaintiffs seek damages for remediation of the environmental damage allegedly caused by BP's predecessors, Midwest Oil Corporation and Amoco Production Company. Plaintiffs admit that this suit is governed by Act 312.

¹ The "Subject Property" is more particularly described in the Petition for Damages as, "[t]hat certain tract of land situated in the Parish of Iberville, State of Louisiana, and being the North Half (N/2) of Fractional Section 15, Township Ten South (T10S), Range 11 East (T11E), containing 57.155 acres; and listed as part of Parcel Number 0800988025 in the Tax Roll Records in the Assessor's Office in Iberville Parish, Louisiana."

Contemporaneous with the filing of this motion, BP has filed its Limited Admission for Environmental Damage Pursuant to La. R.S. 30:29 (“Limited Admission”). In the Limited Admission, BP identifies the specific portions of the Subject Property upon which there is “actual or potential impact” as defined under Act 312. The scope and areas of “environmental damage” on the Subject Property are more particularly described as follows:

- A. Limited Admission Area 1: There exists evidence of actual or potential impact to the Discontinuous Shallow Water Bearing Zone² in Limited Admission Area 1 depicted on Exhibit A. Limited Admission Area 1 is associated with a now closed pit formerly located on the Iberville Parish School Board Property. BP’s limited admission within Limited Admission Area 1 is for environmental damage, if any, to groundwater.
- B. Limited Admission Area 2: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 2 depicted on Exhibit A. Limited Admission Area 2 is associated with the Schwing-Levert No. 1 (SN 120453) and the Schwing-Levert No. 1-D (SN 121454). BP’s limited admission within Limited Admission Area 2 is for environmental damage, if any, to soil and groundwater.
- C. Limited Admission Area 3: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 3 depicted on Exhibit A. Limited Admission Area 3 is associated with the Schwing-Levert No. 2 (SN 123040).³ BP’s limited admission within Limited Admission Area 3 is for environmental damage, if any, to soil and groundwater.

BP further admits, pursuant to Act 312, that it is a “responsible party” for environmental damage in Limited Admission Areas 1, 2, and 3. BP has elected to limit its admission to responsibility for implementing the Most Feasible Plan to evaluate or remediate all or a portion of environmental damage, if any, in Limited Admission Areas 1, 2, and 3 to applicable regulatory standards that protect the health, safety, and welfare of the public.

² “Discontinuous Shallow Water Bearing Zone” means the Class 3 groundwater present intermittently occurring between approximately eleven to sixteen feet beneath the ground surface.

³ Limited Admission Areas 1, 2, and 3 depicted on Exhibit A and which are more particularly described in Paragraphs A to C herein are hereinafter collectively referred to as “Limited Admission Areas 1, 2, and 3.”

II. RELEVANT LAW

The Louisiana Legislature enacted Act 312 “to ensure that damage to the environment is remediated to a standard that protects the public interest” and “set forth the procedure for judicial resolution of claims for environmental damage to property arising from activities subject to the jurisdiction of the Department of Natural Resources, office of conservation.” La. R.S. 30:29(A) (2014).

In 2012, the Legislature revised Act 312 and enacted Louisiana Code of Civil Procedure article 1563 to allow parties to make a “limited admission.” Through a “limited admission,” a party may admit responsibility for “environmental damage.” La. Code Civ. Proc. Art. 1563(A). Environmental damage is broadly defined by Act 312 as “any actual *or potential impact*, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites.” Once a limited admission is filed, the Court *must* refer the matter to the Louisiana Department of Natural Resources (“LDNR”) to conduct a public hearing for development of the “most feasible plan” to remediate the damage on the property in accordance with applicable regulatory standards. La. Code Civ. Proc. Art. 1563(2). The limited admission, the plan approved by the LDNR, and all written comments by the agencies *shall be admissible as evidence* in any action. *Id.* Finally, Act 312 creates a *rebuttable presumption* that the feasible plan approved by LDNR shall be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards. For cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party. *Id.*

III. BP’S ADMISSION

Pursuant to Act 312 and Louisiana Code of Civil Procedure article 1563, BP has made a limited admission that “actual or potential impacts,” as defined by Act 312, exist on portions of the Subject Property in Limited Admission Areas 1, 2, and 3. Further, BP has admitted that it is a “responsible party” for environmental damage, if any, in Limited Admission Areas, 1, 2, and 3 under Act 312. As required by Act 312, BP moves this Court to refer this matter to LDNR for the development of the “Most Feasible Plan.”

Respectfully submitted:



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Attorneys for BP America Production Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has this day been forwarded to all known counsel of record by e-mail properly addressed.

Lafayette, Louisiana, this 26th day of October 2022.



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MATENS

VERSUS

BP AMERICA PRODUCTION COMPANY

FILED: _____

DEPUTY CLERK OF COURT

ORDER

Considering BP America Production Company's ("BP") Limited Admission for Environmental Damage Pursuant to La. R.S. 30:29 and BP's *Ex Parte* Motion for Mandatory Referral to the Louisiana Department of Natural Resources for the Development of the Most Feasible Plan Pursuant to La. R.S. 30:29 and Incorporated Memorandum in Support:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

(1) Pursuant to Louisiana Code of Civil Procedure article 1563 and La. R.S. 30:29, BP enters a limited admission for the environmental damage, as defined by La R.S. 30:29, on the Subject Property in Limited Admission Areas 1, 2, and 3 depicted on Exhibit A and which are described as follows:

- A. Limited Admission Area 1: There exists evidence of actual or potential impact to the Discontinuous Shallow Water Bearing Zone¹ in Limited Admission Area 1 depicted on Exhibit A. Limited Admission Area 1 is associated with a now closed pit formerly located on the Iberville Parish School Board Property. BP's limited admission within Limited Admission Area 1 is for environmental damage, if any, to groundwater.
- B. Limited Admission Area 2: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 2 depicted on Exhibit A. Limited Admission Area 2 is associated with the Schwing-

¹ "Discontinuous Shallow Water Bearing Zone" means the Class 3 groundwater present intermittently occurring between approximately eleven to sixteen feet beneath the ground surface.

Lever No. 1 (SN 120453) and the Schwing-Lever No. 1-D (SN 121454). BP's limited admission within Limited Admission Area 2 is for environmental damage, if any, to soil and groundwater.

- C. Limited Admission Area 3: There exists evidence of actual or potential impact to the soil and to the Discontinuous Shallow Water Bearing Zone in Limited Admission Area 3 depicted on Exhibit A. Limited Admission Area 3 is associated with the Schwing-Lever No. 2 (SN 123040).² BP's limited admission within Limited Admission Area 3 is for environmental damage, if any, to soil and groundwater.

(2) Pursuant to Louisiana Code of Civil Procedure article 1563, BP's responsibility is hereby limited to implementing the Most Feasible Plan to evaluate, and if necessary, remediate all or a portion of the environmental damage, if any, in Limited Admission Areas 1, 2, and 3 to applicable regulatory standards.

(3) Pursuant to Louisiana Code of Civil Procedure article 1563, this matter is referred to the Louisiana Department of Natural Resources, Office of Conservation ("the Department"), to conduct a public hearing to approve or structure a plan which the Department determines to be the Most Feasible Plan to evaluate or remediate the environmental damage in Limited Admission Areas 1, 2, and 3 under applicable regulatory standards pursuant to the provisions of La. R.S. 30:29.

(4) Within thirty (30) days of the signing of this Order, BP shall develop and submit a plan to the Department and the Court for the evaluation or remediation of the environmental damage, if any, in Limited Admission Areas 1, 2, and 3 to applicable regulatory standards. BP's Plan shall be submitted to the Department by certified mail with return receipt requested.

(5) Within thirty (30) days of the submission of BP's Plan, Plaintiffs shall submit to the Department and the Court comments, input, or their own plan in response to BP's Plan. Plaintiffs' comments, input, or plan shall be submitted to the Department by certified mail with return receipt requested.

² Limited Admission Areas 1, 2, and 3 depicted on Exhibit A and which are more particularly described in Paragraphs (1)A to (1)C herein are hereinafter collectively referred to as "Limited Admission Areas 1, 2, and 3."

(6) Within sixty (60) days of the submission of Plaintiffs' comments, input, or plan in response to BP's Plan, the Department shall conduct a public hearing on the plan or plans submitted BP and Plaintiffs. Within sixty (60) days of the conclusion of the public hearing, the Department shall file with the Court a final plan, or if applicable a preliminary plan pursuant to La. R.S. 30:29(C)(3)(b), based on the evidence submitted which the Department determines to be the Most Feasible Plan to evaluate or remediate the environmental damage in Limited Admission Areas 1, 2, and 3 and protect the health safety, and welfare of the people. The Department shall issue written reasons for the plan it approves or structures.

(7) The Department shall submit to the Court a schedule of estimated costs for review of the plans or submittals of the parties by the Department.

(8) Any further proceedings with respect to the plan submitted by BP, the Department, or Plaintiffs shall be conducted pursuant to the procedures set forth in La. R.S. 30:29.

(9) BP's limited admission for environmental damage shall not be construed as an admission of liability for damages under La. R.S. 30:29(H), nor shall BP's limited admission of liability for environmental damage result in a waiver of any rights or defenses of BP.

THUS DONE AND SIGNED, this ____ day of October 2022, at _____, Louisiana.

JUDGE, 18TH JUDICIAL DISTRICT COURT

**PLEASE NOTIFY
ALL PARTIES**